

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**(1) THE CHEROKEE NATION, et al.,**

**Plaintiffs,**

**v.**

**(1) J. KEVIN STITT,**

**Defendant.**

**No. CIV-19-1198-D**

**MOTION FOR LEAVE, *NUNC PRO TUNC*,  
TO FILE AMENDED MOTION  
FOR PARTIAL SUMMARY JUDGMENT WITH BRIEF IN SUPPORT  
BY INTERVENOR-PLAINTIFF WICHITA AND AFFILIATED TRIBES**

Intervenor-Plaintiff Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakoni) ("Wichita Tribe"), pursuant to LCvR 7.1(k)(7), requests leave, *nunc pro tunc*, to amend its Motion for Partial Summary Judgment with Brief in Support (Doc. 127) by filing its Amended Motion for Partial Summary Judgment with Brief in support (Doc. 128).

**REASON FOR AMENDMENT**

On May 22, 2020, the undersigned counsel filed Doc. 127. Shortly after filing, counsel realized the filed motion unexpectedly exceeded the page limits established in the case management Order (Doc. 122). Further investigation revealed incorrect typographic settings in the brief that had caused the document to be larger than expected. Counsel immediately undertook the task of correcting the settings and making additional revisions to ensure the brief was within the page limits set by the Court's Order. Counsel aimed to file the amendment immediately so Defendant's counsel would not experience any prejudicial delay based on the need to amend. Roughly three hours later, counsel filed Doc. 128.

**CERTIFICATE OF NO OBJECTION**

On May 26, 2020, consistent with LCvR 7.1(k), the undersigned counsel contacted Phillip Whaley, counsel for the Defendant, to inquire whether Defendant objected to the filing of the amended motion. The undersigned also provided Mr. Whaley a redlined comparison showing the textual changes between Doc. 127 and Doc. 128. Mr. Whaley responded that there was no objection to the filing of the amended motion.

**RELIEF REQUESTED**

Accordingly, the Wichita Tribe asks the Court to enter an Order granting leave to file, *nunc pro tunc*, and accepting for filing its Amended Motion for Partial Summary Judgment with Brief in Support (Doc. 128), and striking its original Motion for Partial Summary Judgment with Brief in Support (Doc. 127).

WHEREFORE, the Wichita Tribe asks the Court to grant its motion for leave to file, *nunc pro tunc*, its Amended Motion for Partial Summary Judgment with Brief in Support (Doc. 128) and for such additional relief as is warranted.

Respectfully submitted,

May 26, 2020

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2020, a true and correct copy of the above and foregoing with exhibits (if applicable) was served on the following via the Court's ECF system:

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*/s/ Michael D. McMahan*  
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